

COUNTY OF LINCOLN

New Mexico Regular Meeting Board of County Commissioners

Preston Stone, Chair
Dallas Draper, Vice Chair

Thomas F. Stewart, Member
Elaine Allen, Member
Lynn Willard, Member

Minutes Tuesday, December 15, 2015

Minutes of the Regular Meeting of the Lincoln County Commission held at 8:30 AM on December 15, 2015 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

1. Call to Order

Chair Stone called the Regular Meeting of the Board of County Commissioners to order at 8:28:56 AM.

2. Roll Call

Roll Call.

Present: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Rhonda Burrows, County Clerk.

3. Invocation

The invocation was presented by Chair Stone.

4. Pledge of Allegiance

- a. Pledge – US Flag
- b. Salute – NM Flag

5. Approval of Agenda

Motion: Acceptance of the Agenda and authorized the Chair to move items as necessary.

Action: Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

6. Approval of Minutes

- a. November 06, 2015 - Special Commission Meeting
- b. November 17, 2015 - Regular Commission Meeting
- c. November 19, 2015 - Special Commission Meeting
- d. November 23, 2015 - Special Commission Meeting

Motion: Approve the minutes of the November 6, 2015 Special Meeting; November 17, 2015 Regular Meeting; November 19, 2015 Special Meeting; and the November 23, 2015 Special Meeting, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

7. Approval of Consent Agenda

- a. Payroll/Accounts Payable/Budget/ Expenditures

b. Treasurer's Financial Report for the Month ending November 30, 2015

Motion: Approval of Consent items as presented, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Stewart.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT A: Copies of Consent Items are attached hereto in reference thereto made a part hereof.

Chair Stone recessed the Regular Meeting and convened the Board of Finance Meeting at 8:33:19 AM.

8. Board of Finance – County Treasurer

Beverly Calaway, Treasurer presented the Treasurer's Financial Statement for the month ending November 30, 2015. Ms. Calaway stated her office had collected 42% of projected General Fund Budget revenues as of the end November. Ms. Calaway stated December's Financial Report would reflect any approved mid-year budget adjustments.

Ms. Calaway informed property tax collections were at 45% of budgeted revenues as of the end of November compared to 41% in 2014 in addition to collection of 58% of delinquent property taxes. Ms. Calaway stated the Treasurer's office would distribute \$6,101,356.25 in property tax collections to local entities on December 20, 2015.

Ms. Calaway stated the Treasurer's office currently held \$2,637,247.51 in Certificates of Deposit, Debt Reserve Requirements, and the Local Government Investment Pool (LDIP). Ms. Calaway reported total cash held on November 30, 2015 was \$25,669,113.48 compared to \$23,417,581.25 in November of 2014. Ms. Calaway reminded all funds held by the County Treasurer were fully vested and collateralized at 102%.

Ms. Calaway reviewed the Tax Schedule Maintenance Report reflecting the collection of 39.8% of \$29,326,552.46 in actual property tax billings for 2015 and noted 97% of the 2014 property tax billings were collected as of November 30, 2015.

Ms. Calaway reported on her attendance at the 2015 Local Government Division Budget Conference and discussed the information presented regarding local government issues, gross receipt tax increments, budget management, the Public Records Act, and financial reporting requirements. Ms. Calaway provided copies of handouts received which address current Lincoln County issues such as gross receipt tax increments and information on voter approved mill levies.

Commissioner Draper questioned Ms. Calaway about the "sunset" of the currently imposed County Business Retention Tax (BRT). Ms. Calaway stated the NM Department of Finance would discontinue the tax without any further action by the Board of County Commissioners at the end of 2015.

Commissioner Willard questioned if the Treasurer's office had received the monthly hospital lease payment.

Ms. Calaway confirmed the lease payment was received on December 14, 2015.

There was general consensus for the Manager to provide public notice of the expiration of the Business Retention Tax.

Chair Stone adjourned the Board of Finance and reconvened the Regular Meeting at 8:45:00 AM.

**9. Recognition and Congratulations to Undersheriff Kenneth Cramer, Retirement
Date December 18, 2015**

Robert Shepperd, Sheriff informed Undersheriff Ken Cramer began his career in law enforcement 1968 with the Ohio Highway Patrol. Sheriff Shepperd stated Undersheriff Cramer successfully held every police department rank other than the rank of Captain during his 29 years of service. Sheriff Shepperd stated Undersheriff Cramer moved to New Mexico in 2000, and began employment with the Lincoln County Sheriff's Department on June 19, 2000 as a Deputy Sheriff. Undersheriff Cramer was assigned to Plainclothes Investigations in 2004, promoted to Detective Sargent in 2005, and promoted to Commander of Lincoln County Narcotics Unit in 2007 until the

unit was disbanded in 2012. Sheriff Shepperd appointed Undersheriff Cramer to his current position in January 2013. Sheriff Shepperd stated after forty four and one half years of service in law enforcement, Undersheriff Cramer was retiring on December 18, 2015 to move to Arizona due to a family illness. Sheriff Shepperd expressed his deepest appreciation for the outstanding service of Undersheriff Kenneth Cramer on behalf of the citizens of Lincoln County and presented a commemorative plaque to Undersheriff Cramer.

Undersheriff Cramer thanked the Board of County Commissioners for their acknowledgement and commented on his "adventure" working for the Lincoln County Sheriff's Department where officers encounter a vast variety of circumstances and often work in isolated areas alone. Undersheriff Cramer commented on the current "difficult times" for law enforcement officers and expressed appreciation for community support of all law enforcement officers.

10. Hwy 54 Construction through Carrizozo – Presentation by the New Mexico Department of Transportation

Jerry Paz, Senior Professional Engineer for Molzen Corbin informed his firm was awarded a contract by the New Mexico Department of Transportation to initiate a study and preliminary design of the reconstruction of Highway 54 through Lincoln County.

Mr. Paz explained Molzen Corbin would serve as the lead consultant for the project. Mr. Paz additionally introduced Sherry Holyfield from the NM Department of Transportation South Region Design Center as the Project Development Engineer responsible for having oversight of the project for the State. Mr. Paz also introduced John Montoya of Molzen Corbin as the Project Manager leading the design effort and Hilary Brinegar of Marron and Associates. Mr. Paz explained Marron and Associates were responsible for the project Environmental Assessment. Mr. Paz discussed various other project consultants who would provide additional project related studies.

Mr. Paz discussed the three step process beginning with a Location Study which includes public input to develop design options, the environmental assessment, and the development preliminary designs prior to adoption of a final design.

Mr. Paz discussed the federally required and critical "Purpose and Needs Statement". Mr. Paz stated the "Purpose" was a broad definition of why the project was initiated and the "Needs Statement" was a very detailed documentation of all deficiencies and needs of the design corridor. Mr. Paz stated deficiencies could include repair needs, traffic flow problems, safety issues, access, and connectivity to the rest of Highway 54. Mr. Paz discussed the economic impact of road design on the community and other elements considered for project advancement.

There was a general discussion of the impact of the project on local business and residents, existing drainage problems, and other design concerns.

Mr. Paz stated today's meeting was the "Kick Off Meeting" for the design process and anticipated an issuance of requests for bids in 2017. Mr. Paz stated the average completion time for similar projects was seven years.

15. 9:30 A.M.: PUBLIC COMMENT AND OTHER BUSINESS FROM COUNTY OFFICIALS

Commissioner Stewart reported on his participation every two weeks in the Joint Land Use Study teleconferences and stated a formal meeting for Military Coordination and Cooperation was set for July 27, 2016 in Las Cruces.

Commissioner Allen expressed concern for the residents of San Bernardino, California after the recent shooting incident in that community.

Commissioner Draper extended a wish for Happy Holidays to County residents and expressed concerns about the children of Lincoln County. Commissioner Draper commented on the presence of homeless children attending schools in Lincoln County and suggested everyone do one thing for a child.

Chair Stone reported on his attendance at a December meeting of the New Mexico and Arizona Coalition of Counties to discuss the impact from the reintroduction of the Mexican Wolf. Chair Stone stated separate from their Dues Fund the Coalition had a Legal Contribution Fund which had a balance of \$104,000 at the beginning of the year. Chair Stone stated the Coalition retained an attorney to represent them in matters involving the US Department of Fish and Wildlife regarding the wolf and jaguar reintroduction. Chair Stone noted the Legal Contribution Fund was

nearly depleted and anticipated the Coalition would solicit additional funding from the member counties. Chair Stone stated Howard Hutchinson of the Coalition had agreed to provide a presentation in the near future.

Chair Stone expressed appreciation for the service of Undersheriff Cramer, all law enforcement officers and other emergency responders who serve and have served the residents of Lincoln County.

Beverly Calaway, Treasurer expressed appreciation for the Treasurer's office staff including Sherrie Huddleston, Chief Deputy Treasurer; Cassie Sponagel, Financial Accounting Officer; Rose Anne Romero, Deputy Treasurer; Kim Raines, Deputy Treasurer; and Rhonda Edwards, Deputy Treasurer. Ms. Calaway informed the Treasurer's office receipted over \$11 million dollars in property tax payments during the last month.

Don Hatfield, State of New Mexico Livestock Inspector expressed appreciation for past assistance provided by various County departments including the Sheriff's office, the Assessor, the Road Department and the Office of Emergency Services.

Sheriff Robert Shepperd expressed regret over Mr. Hatfield's decision to move from Lincoln County to the Las Cruces area. Sheriff Shepperd stated he had never worked with a Livestock Inspector who demonstrated a better work ethic than Mr. Hatfield. Sheriff Shepperd also discussed the important collaboration between the Sheriff's Office and the District Livestock Inspector as law enforcement officials.

Joe Kenmore, Director of the Office of Emergency Services expressed his appreciation for the cooperative service provided to his office by Mr. Hatfield when responding to emergencies involving livestock.

Chair Stone commented on the valuable assistance provided by State Livestock Inspectors to all law enforcement agencies within their District. Chair Stone also discussed Mr. Hatfield's efforts to establish a good working relationship with the horse racing industry.

Nita Taylor, Manager commended Mr. Hatfield for his assistance to the County of Lincoln during the Little Bear Fire.

Yovanne Lucero, Chief Deputy Assessor and newly appointed Mayor of Carrizozo discussed "Carrizozo Works" as an economic development organization dedicated to improving the Town of Carrizozo. Ms. Lucero described efforts to gain a "Historical District" designation on the National Registry of Historic Districts.

Ms. Lucero, speaking as Mayor, presented a request for the County to consider transfer ownership of a small parcel of County owned land within the municipal boundary to the Town of Carrizozo. Ms. Lucero provided a map of the parcel and informed it was originally a rodeo arena off of Water Canyon Road.

Ms. Lucero also discussed her concerns about the procedure of releasing Lincoln County Detention Center inmates without transportation or in some cases adequate clothing. Ms. Lucero expressed belief current procedures impacted the local community and created a hardship for those released.

28. Lincoln County State Audit Report

Ms. Taylor provided a copy of the letter received from the Office of the State Auditor acknowledging receipt of the audit report and completion of the State Auditor's review. Ms. Taylor noted the requirements for public release defined in the letter and the requirement for presentation of the audit report "to a quorum of the agency's governing authority at a public meeting".

A.J. Bowers of the Accounting and Consulting group presented a review of the audit report telephonically. Mr. Bowers discussed the timeline for completion of the audit and noted the Release Letter from the State Auditor was received on December 7, 2016.

Mr. Bowers explained it was the responsibility of his firm to render an opinion on the financial statements of the County. Mr. Bowers stated for the 2014-2015 Audit Report the firm had issued an "Unmodified Opinion" on the Financial Statements. Mr. Bowers noted an Unmodified Opinion was the highest level of opinion given.

Mr. Bowers stated there were two other reports included in the Audit Report with one being the Internal Controls or Compliance Report. Mr. Bowers explained the Internal Controls Report

contained findings but no assurance on compliance or opinion was given. Mr. Bowers stated the third report was the Major Program Compliance Report required for any Federal Grant Awards which reflects compliance and controls on federally funded grant programs. Mr. Bowers stated his firm audited the Hazardous Fuel Reduction and the Forest Reserve grants and issued an Unmodified Opinion both grants.

Mr. Bowers noted five findings from the prior year were resolved from prior including the repeat Capital Asset finding. Mr. Bowers discussed the increase in revenues over the past year of approximately \$662,000. Mr. Bowers also discussed the implementation of the new net pension liability requirement reflecting Lincoln County's liability to the Public Employees Retirement Fund (PERA) which amounted to \$5.8 million for the net pension liability.

Mr. Bowers discussed two forthcoming accounting standards due in 2016 and 2018 including a change to the reporting of principals and a second change in 2018 requiring a restatement of liability for participation in plans such as the Retiree Healthcare plan.

Motion: Accept the Fiscal Year 2014–2015 Audit Report, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Willard.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

11. Forest, Land & Natural Resources Matters:

a) Smokey Bear Ranger District

Acting District Ranger Emily Platt provided information on her background and qualifications including her position as a Planning Specialist in the US Forest Service Regional Office in Portland, Oregon. Ms. Platt discussed her work on Forest Service Land Use Plans and noted her past experience working for a nonprofit to establish collaboration between local communities and the US Forest Service.

Acting Ranger Platt discussed the review of the Final Decision for the North Fork Eagle Creek Wells Special Use Permit. Acting Ranger Platt noted one formal objection to the decision was received and pending review, she anticipated the Forest Service would issue a permit in the near future.

Acting Ranger Platt discussed the Ranger District's plans to conduct prescribed burns through the winter to reduce thinning piles. Acting Ranger Platt also discussed a recent 180 acre wildfire on private land.

Commissioner Draper questioned how long Acting Ranger Platt would serve as the Acting Ranger for the Smokey Bear District.

Acting Ranger Platt anticipated appointment of a permanent District Ranger in March of 2016.

Chair Stone expressed concerns about the ongoing revisions of the Forest Land Use Plans.

Acting Ranger Platt expressed belief it was a priority of the Forest Supervisor to appoint a District Ranger who would work well with Lincoln County and municipalities in the District.

b) Cibola National Forest

There were no updates concerning the Cibola Forest Plan Revision process.

c) Community Forester

Rick Merrick, Rural Forester reminded the NM Prescribed Burn Council would provide a presentation to the State Legislature this year on the benefits of "Good Fire". Mr. Merrick reported plans continued for the Sacramento Mountain Wood Industries Summit with a recent donation of \$1000 from the City of Alamogordo and the donation of the Convention Center facility by the Village of Ruidoso at no charge.

Mr. Merrick discussed collaboration on training opportunities with local fire departments on prescribed burn projects. Mr. Merrick expressed appreciation for the good working relationships between various entities on the establishment of a chain of command and the coordination of response to wildfires.

Commissioner Draper questioned if there had were any updates on the potential reopening of the Mescalero sawmill.

Mr. Merrick discussed the recent downturn in demand for some milled wood products and expressed belief there were other challenges to the reopening of the sawmill.

d) Upper Hondo Soil and Water Conservation District

Laura Johnson, Program Director for the Upper Hondo Soil and Water Conservation District (UHSWCD) reported the organization held an annual legislative dinner on December 11, 2016 and thanked several County Officials for attending.

Ms. Johnson reported the UHSWCD had officially adopted a Land Use Plan and provided a copy for the County's review. Ms. Johnson stated the District would use the Land Use Plan as a Planning Document for future projects.

Ms. Johnson discussed a meeting held with the City of Alamogordo as a stakeholder owning property in the Weed Planning Area for the discussion of treatment plans for invasive weeds in the Upper Bonito Area.

Ms. Johnson informed the District received approval for funding from the Water Trust Board to continue watershed restoration efforts on the Rio Bonito, Rio Ruidoso, and Rio Hondo watersheds. Ms. Johnson stated the District also applied for funding to maintain the long term project in watershed restoration and also to contract for the rehabilitation of the Salado Dam project in order to comply with the Office of the State Engineers recommendations.

Ms. Johnson stated the UHSWCD recently completed a 450 acre fuel reduction project on the upper Rio Bonito near Fort Stanton with plans for a prescribed burn of the slash in the spring. Ms. Johnson noted the District had provided comments for the Forest Plan Revision and stated the District planned to participate on an ongoing basis in the process.

Ms. Taylor stated she had contacted members of the County's Land and Natural Resources Advisory Committee regarding their participation on behalf of the County during the Cibola and Smokey Bear Forest Plan Revision process. Ms. Taylor stated several members were already participating and she host a formal meeting with the Committee in the near future and provide and update.

e) Office of State Engineer-Water Issues

Ms. Taylor reported:

Alto Lakes Water and Sanitation District filed Application No. H-719 et. Al. in H-1922 (T) for a permit under the Water Leasing Act to temporarily change the point of diversion as well as the place and purpose of use of 1.0 Acre feet per annum of ground water diverted from 57 different wells. Ms. Taylor noted the move from point of diversion and place of use was within the Alto Lakes Water and Sanitation District service area with the move to point of diversion and place of use being the Brewer Gas Station on Ski Run Road.

Commissioner Willard reported the application was filed by the Alto Lakes Water and Sanitation District based on a request from the owner of the Brewer Gas Station to lease one acre from the District for business use.

14. Support of 2016 NMAC Legislative Priorities by Resolution 2015-26 – Presentation by NMAC President Sharon Stover and NMAC Executive Director Steve Kopelman

Ms. Taylor presented for consideration a Resolution in support of the New Mexico Association of Counties (NMAC) Legislative Priorities.

Sharon Stover, current NMAC President and Los Alamos County Clerk discussed the similarities between Los Alamos County and Lincoln County particularly dealing with the effects of large fires. Ms. Stover stated she and Executive Director Steve Kopleman were attending Commission meetings in each of the thirty three counties to "put a face" to the Administration of NMAC. Ms. Stover reminded NMAC was established in 1956 with a mission to champion each county's ability to govern their own affairs and improve the lives of their residents.

Ms. Stover and Mr. Kopelman provided an overview of NMAC's organization and mission including Policy Committees and Task Forces as well as the organizations' various policy statements. Also included in the presentation was a discussion of various unfunded State

mandates, past legislative accomplishments, current federal legislative initiatives, the NMAC 2019 Legislative Priorities and the NMAC Self Insurance Pools.

Ms. Stover reminded NMAC was a nonprofit which existed solely to assist county government in every possible manner. Ms. Stover informed NMAC had two lobbyists on staff, Brian Moore and Tasia Young, whose primary goal was to assist with legislative initiatives.

Mr. Kopelman presented the 2016 Legislative Priorities for consideration which included: Restore County Detention Center Funding; Support Funding for a Statewide EMS Assessment; Support Gross Receipts Tax Reform; and Support a State Level Contribution to the New Mexico 3-D Elevation Program.

Motion: Adopt Resolution 2016-26 in support of the NMAC Legislative Priorities, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Commissioner Willard questioned if the Support for Funding for a Statewide EMS Assessment would conflict with any County objectives.

Spencer Baldwin, Office of Emergency Services Coordinator stated based on his current understanding there was no conflict.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT B: Copy of Resolution 2015-26 is attached hereto in reference thereto made a part hereof.

12. Support of the Original Intent of the New Mexico Livestock Code by Resolution 2015-28

Attorney Morel informed one other county had adopted this Resolution with other counties considering adoption.

Chair Stone reported not all New Mexico Livestock Inspectors were "Certified Inspectors" a classification obtained through attendance at the law enforcement academy and subsequent oath to enforcement of State Law. Chair Stone stated the current issue concerned the statutory requirement for all Certified Livestock Inspectors to be armed at all times while on duty. Chair Stone stated the livestock industry opposed the presence of an armed livestock inspector on their private property as an overreach of power and preferred Livestock Inspectors have the discretion as to when and where it was appropriate to be armed.

Attorney General was required to support state statute but the NM Livestock Industry was opposed to the practice of a livestock inspector being required to be armed when inspecting livestock on private property and to allow the inspectors to use discretion as to what equipment was necessary to carry during the execution of their duties.

Motion: Adopt Resolution 2015-28 with revision to specify "law enforcement" equipment, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT C: Copy of Resolution 2015-28 is attached hereto in reference thereto made a part hereof.

13. Community Development Block Grant (CDBG) Annual Requirements

- a) Resolution 2015-23 Purchasing Policy
- b) Resolution 2015-24 CDBG Policies & Certifications
- c) Resolution 2015-25 Fair Housing

Ms. Taylor presented the Resolutions for annual review and potential adoption of the Lincoln County Purchasing Policy, CDBG Policies and Certifications and Fair Housing.

Motion: Adopt Resolution 2015-23, Resolution 2015-24 and Resolution 2105-25, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Stewart.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT D: Copies of Resolution 2015-23; Resolution 2015-24; and Resolution 2015-25 are attached hereto in reference thereto made a part hereof.

16. Approval or Disapproval of Safety Net Care Pool & Indigent Health Care Claims

Mr. Annala presented the Safety Net Care Provider Pool claims for approval. Mr. Annala processed 33 claims with 22 recommended for approval and 11 recommended for disapproval for a monthly authorization of \$8,212. Mr. Annala stated approval of the claims would result in a total approval to date of SNCP claims for Fiscal Year 2015-2016 of \$88,836 or a monthly average of \$14,806.

Mr. Annala presented the Indigent Health Care Payments request for the month. Mr. Annala stated he processed 29 claims with 29 claims recommended for approval and none for disapproval for a total payment this month of \$4,727.32. Mr. Annala stated approval of the claim would result in a total expenditure to date for IHC claims for Fiscal Year 2015-2016 of \$35,258 or a monthly average of \$5,876. Mr. Annala stated based on the current monthly average he anticipated an annual expenditure of \$70,515 for the fiscal year.

Motion: Approval and denial of the claims as indicated for SCP/SNCP and Indigent Health Care as recommended, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Stewart.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Mr. Annala reported he received a refund in the amount of \$2,291.00 from the Cancer Clinics yielding a net expenditure for the month of \$2,436.00.

SEE EXHIBIT E: Copies of the Sole Community Provider and Indigent Health Care Payments are attached hereto in reference thereto made a part hereof.

17. Manager's Report

- 1. Carrizozo Senior Center.** The Manager reported the Carrizozo Senior Center was progressing on schedule. Project Manager Ricardo Maldonado from Wilson & Company maintains oversight and reported submittals were timely received from Contractor Ryan Roper. The submittals included: Plumbing (piping specialties, equipment, fixtures); HVAC (fire damper, ceiling fans, air distribution, kitchen hood, RTUs, Unit Heaters, Split System) and Electrical (conductors & cables, grounding & bonding, raceways & boxes, panelboards, wiring devices, lighting, lighting control panels).

Contractor Ryan Roper reported on December 3, 2015 the building site was over-excavated and engineer fill was brought in so earthwork could proceed followed by foundation work and the plumbing rough-in. Mr. Roper reported he applied for the building permit in October but had received no response as of this date. The Manager noted the Construction Industries Division (CID) was implementing a new program which caused a delay in the issuance of permits.

The Manager discussed the importance of the project which will serve the residents of the Town of Carrizozo and also headquarter the County Senior Director and other staff. The Manager proposed a County Commission led ground-breaking ceremony during the January Regular Meeting.

There was general consensus to schedule a Ground Breaking Ceremony for the new Carrizozo Senior Center on January 26, 2016

- 2. SpyGlass Group, LLC.** Based on Commission concurrence and direction Lincoln County entered into agreement in May of 2015 with SpyGlass Group, LLC to conduct a Snapshot Audit to analyze primary telecommunications service accounts including local voice, long distance voice, data, and internet and wireless services. The purpose of the audit was to seek cost recovery, service elimination and cost reduction recommendations. The Manager reported SpyGlass provided findings, recommendations, assisted with

implementation of changes and a provided a complete telecommunications inventory to the County. The Manager provided the findings for review:

Total Land-line forward-looking annual cost savings:	\$12,324.12
Credit for incorrect past tax assessments:	\$ 7,276.94
Total wireless forward-looking annual cost savings:	\$ 1,439.40
Annual Savings based new spending agreements negotiated:	\$ 7,308.00

Total contractual fee to SpyGlass:	
½ of the cost recovery for incorrect tax Assessments:	\$ 3,638.47
12 months annual cost savings for land-line service:	\$ 12,324.12
12 months annual cost savings for wireless service:	\$ 1,439.40

The Manager stated realization of true savings would occur in following years as annualized reductions in telecommunication costs were realized.

3. **Building Maintenance:** The Manager noted the entire County Complex was re-roofed, except for the Commission Chambers / Managers Building. The Manager described current roof leakage problems in the building and reported the conditions were brought to the County's attention earlier in the year following a New Mexico Association of Counties building inspection. The Manager informed the projected cost for a complete re-roof of the building was \$83,500 and requested concurrence for the maintenance job. The Manager noted funding was previously budgeted and approved.

There was a general consensus to reroof the Commission Chamber/Managers Building.

4. **El Capitan Mine:** The Manager received a response from the attorney for El Capitan Mine attorney suggesting a mid-December date for a County Commission tour of the facility. The Manager stated due to the timing of this meeting, an alternative January date was requested.
5. **Hats-Off – Yovanne Lucero:** The Manager informed the Chief Deputy Assessor was sworn in as the Mayor of the Town of Carrizozo. Ms. Lucero had served as Mayor Pro Tem since 2014 and was appointed Mayor upon the resignation of former Mayor Wes Lindsay due to health reasons. The Manager noted Ms. Lucero, lifelong resident of Lincoln County, graduated from Hondo High School and subsequently obtained her Bachelor's Degree from the University of New Mexico in Psychology/Criminology. After appointment as the Chief Deputy Assessor in November 2007, Ms. Lucero graduated from ENMU-Las Cruces with a double major in Public Administration and Criminal Justice. Congratulations to Yovanne Lucero!

6. Departmental Updates:

a) **Joe Kenmore, Director Office of Emergency Services** informed water was flowing over the Bonito spillway. Mr. Kenmore reported on his department's response to a recent cattle truck roll over and acknowledged the multiple entities participating in the response including the State Livestock Inspector, the NM Department of Transportation, Diamond A and Coe Ranch personnel, and a veterinarian who happened on to the scene. Mr. Kenmore discussed the 181 acre grassfire on Ranchman's Camp Road near Nogal and noted the quick response from volunteer fire departments and the USFS led to containment within the day.

Chair Stone recessed the Regular Meeting for the Christmas Holiday Luncheon at 11:46:14 AM and reconvened at 12:50:05 PM.

b) **Curt Temple, Planning Director** provided a report on the "over excavation" of the Carrizozo Senior Center and the subsequent back fill with "engineers" fill. Mr. Temple stated the site was now ready for pouring the slab.

Mr. Temple stated renewal letters for Alarm Ordinance permits were distributed but subsequently staff determined the website interface to complete permits was not functioning and the link was currently disabled. Mr. Temple stated they were working with Systems MD to correct the problem.

Commissioner Willard questioned if there was any action the County could take expedite the permit process for the Carrizozo Senior Center.

Mr. Temple reported the permit was submitted more than one month ago but did not know of any process to expedite the issuance.

There was discussion and consensus to direct the Manager to send a letter to the Construction Industries Division requesting the permit be expedited.

Ms. Taylor requested Mr. Temple provide an update on key solid waste issues.

Mr. Temple reported a meeting with the new contractor resulted in plans to create a link from the Lincoln County website to a site which would provide general solid waste collection information to the public. Mr. Temple stated information would include a schedule of times when roll offs were available at various locations to reduce illegal dumping and also information regarding the disposal of property at the Sierra Contracting facility without charge. Mr. Temple stated Sierra Contracting was anticipating the first delivery of new compactors today. Mr. Temple noted all compacting sites in the County were identified and the County would assume management of ten sites and associated utilities as of January 1, 2016.

c) **Bill Cupit, Interim Road Superintendent** informed the department was currently working on road projects on Border Hill Road and Seven Rivers. Mr. Cupit stated Road Department employees were working to add base course to a number of roads in the County and he was utilizing multiple blade operators on the same job to assist with training and increase production purposes. Mr. Cupit reported maintenance of equipment was ongoing to ensure safety and work had begun to clean the Road Yard up and move miscellaneous debris to County property on Airport Road for future sale. Mr. Cupit discussed the need for a new screening plant and stated he would seek bids for the equipment in the near future.

Mr. Cupit discussed the pending FEMA Road Repair projects and suggested the projects would require additional supervision other than the County Road Superintendent.

Mr. Cupit requested assistance with a request to the NM State Highway Department to utilize unused State materials on County Roads. Mr. Cupit reported he had also approached Fred Peyton from the Village of Ruidoso about a potential cost share agreement for the purchase of hot mix rather than hauling this material from Tularosa. Mr. Cupit also discussed the historic use of a Road Review Committee to provide input on a five year road plan rather than the Road Superintendent having sole discretion over the planning process.

Attorney Morel reminded the Ordinance authorizing the formation of the Road Review Committee defined duties as related to the consideration of roads for vacation or abandonment.

d) **Punkin Schlarb, Finance Director** reported she attended the NMAC Advisory Council meeting to present the Finance Affiliate agenda for the Legislative Conference. Ms. Schlarb also reported New Mexico Edge was developing a curriculum and certification process for finance department employees.

20. Catron County Wolf Program – Presentation by Catron County Commissioner Anita Hand and Catron County Manager Kate Fletcher

Ms. Taylor reminded of the adoption of the Lincoln County Resolution and the discussion concerning the potential expansion of the Sheriff's authority to deal with human wolf interactions.

Catron County Commissioner Nita Hand provided an extensive presentation on the Catron County's response to the Mexican Wolf. Ms. Hand discussed efforts to work with the US Fish and Wildlife Department and to resolve issues such as the financial impact of the Mexican Wolf Reintroduction on both local livestock producers and the County's overall economy. Ms. Hand informed the lack of a rancher's ability to document wolf kills and obtain reimbursement led to the decision for the County to hire an independent Wildlife Specialist. Ms. Hand stated in addition to working with livestock producers to document wolf kills the Wildlife Specialist also assisted with the research and preparation of a report titled "*Catron County, New Mexico Impacts from the Mexican Grey Wolf Non-essential Reintroduction Program – A County Crisis*". Ms. Hand provided a copy of the report which included a factual analysis of economic impacts, a review of social implications, and documentation of wolf depredation of livestock.

Commissioner Willard questioned how Catron County budgeted the Wildlife Specialist position.

Ms. Hand reported the position was budgeted as an employee within the Sheriff's Department.

Sheriff Robert Shepperd commented on the potential effect of the presence of wolves on tourism in Lincoln County. Sheriff Shepperd inquired if Catron County had documented wolf human incidents with any non-County residents.

Ms. Hand stated data collected did include some interactions with non-County residents as reported through the Sheriff's office. Ms. Hand discussed the "wolf protection cages" installed to protect children waiting for school buses as a response to individual reports of wolf stalking's or wolf sightings by children or parents near school bus stops.

Chair Stone thanked Commissioner Hand for the presentation and expressed concern about the potential for similar issues arising in Lincoln County.

Commissioner Stewart suggested moving forward with a County Ordinance as an effort to forewarn both residents and external agencies.

Chair Stone recessed the Regular Meeting at 2:14:54 PM and reconvened at 2:24:00 PM.

18. Approval Requesting Loan Payoff for Hondo Volunteer Fire Department

Ms. Taylor presented a request from the Hondo Fire Department to pay off the department's existing loan balance of \$77,000.00 with the New Mexico Finance Authority. Ms. Taylor reported sufficient funds were available to pay the loan balance and meet other financial obligations. Ms. Taylor stated the Hondo Fire Department received approval to utilize Hondo Fire District Fire Protection Funds for the pay off.

Motion: Authorize the Hondo Volunteer Fire Department to pay off current loan with the New Mexico Finance Authority, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

19. Inventory Assets Annual Certification

Ms. Taylor reported the Finance Director had supervised this year's annual inventory of chattels and equipment valued at over \$5,000. Ms. Taylor requested approval of the Annual Inventory Certification in accordance with annual requirements as specified in NMSA 12-6-10.

Motion: Approve the Annual Inventory Certification, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

21. Consideration / Action Lincoln County Medical Center

a) Timing of Voter Approval for Hospital Funding

Ms. Taylor reminded of past actions and discussions regarding the renovation and remodel of LCMC. Ms. Taylor noted during the last meeting various options for presenting a question to voters was discussed as well as options for financing of the project.

Ms. Taylor reminded the Lincoln County Medical Center Administrator had expressed belief postponement of the remodel project would jeopardize future hospital accreditation and licensure.

Ms. Taylor noted LCMC Administrator Al Santos as well as Joe Lupica with Newpoint and acting consultant for the County were present for the discussion.

Bo Beames, Vice President of Regional Operations for Presbyterian Health Care Services thanked Lincoln County for the support and partnership with Presbyterian since 1973. Mr. Beames expressed support for the renovation and remodel project as necessary to meet the current and future health care needs of the residents of Lincoln County.

Commissioner Draper reminded the Board of County Commissioners made a public commitment by a unanimous vote to the renovation and remodel project. Commissioner Draper stated it was appropriate for the County to conduct due diligence including hiring consultants to provide

guidance. Commissioner Draper expressed confidence in the voters understanding of the need for the remodel project. Commissioner Draper stated the most frequent question he received from the public was whether the project would increase the number of physicians practicing in the area.

Mr. Beames expressed support for an open and transparent process between the County and Presbyterian. Mr. Beames acknowledged the recent communication difficulties and discussed the unexpected action of the County's hiring a consultant firm to assist with financial planning. Mr. Beames stated Presbyterian was willing to work with the County's consultant in order to move the project forward. Mr. Beames discussed stated belief the construction of the new professional office building, Presbyterian's new electronic records system and other improvements would assist in the recruitment of physicians.

Mr. Beames stated from the "reaccreditation standpoint" current facility conditions presented challenges as not meeting the most current code requirements but expressed belief the JAHCO accreditation process was not the driving factor for the project.

Commissioner Allen requested clarification of the previous assertion that a funding mechanism to begin the renovation and remodel project by 2017 was necessary or LCMC would face the loss of accreditation.

Mr. Beames stated facility conditions presented challenges but expressed doubt these conditions would lead to a loss of accreditation.

Commissioner Stewart reviewed the initial options presented by LCMC including the "Do Nothing Option" which bulleted a comment which referenced the potential loss of accreditation.

Commissioner Allen stated this particular statement created a sense of urgency in addition to other subsequent statements was the cause of the miscommunication between LCMC and the County.

Al Santos, LCMC Administrator stated the presentation which referenced the potential loss of accreditation was created and presented by the architectural firm of Dekker Perrich and Sabatini based on their experience and was in his opinion most likely an overstatement.

Commissioner Willard suggested, since the remodel project was unanimously approved, the decision for consideration today was if and when to present a question to the voters and secondly whether to expend funds on architectural services prior to a vote by the voters.

Chair Stone expressed belief the question should be presented to the voters during the General Election and no funds should be expend prior to voter approval.

Commissioner Stewart discussed the architectural firm's estimate of rising construction costs of time as a consideration but expressed support for Chair Stone's position.

Commissioner Draper also expressed support for placing the question on the General Election ballot due to the upcoming bond questions presented by the schools and municipalities. Commissioner Draper questioned if there was an option to provide some preliminary architectural services prior to voter approval of a funding mechanism.

There was general discussion of various options to proceed.

Motion: Delay submission of the question to the voters until the General Election and delay approval of an architectural firm pending voter approval of financing option; **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Ms. Taylor reminded the architectural firm had received payment from LCMC's Auxiliary for the health assessment and preliminary design and noted there was sufficient time to conduct a second, independent health analysis of the facility.

There was general discussion regarding the conduct of a second, independent health assessment of the facility.

Attorney Morel reminded the current agenda item was consideration of the timing of voter approval for financing options.

Commissioner Stewart withdrew the motion, Commissioner Allen with the second.

Motion: Present a question regarding the financing of the renovation and remodel of Lincoln County Medical Center to the voters on the General Election Ballot, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.
Vote: Motion carried by unanimous vote (summary: Yes = 5).
Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

b) Hiring of Architectural Firm

Joe Lupica, consultant for Lincoln County stated due to age there was no doubt the facilities needed improvements. Mr. Lupica commented on the various considerations in the development of an accurate health assessment of a facility as including discussion with all stakeholders and in particular with the facility owner in this case County.

Mr. Lupica noted the cost of the proposed remodel project was equal to a full budget year of County revenue and supported the need for full disclosure and discussion. Mr. Lupica pointed out the planning process to date had not included decision making authority by the County. Mr. Lupica defined his role as an intermediary to help define the questions needed for the County to make an informed decision.

Mr. Lupica discussed the advantage of the previously approved Hospital Master Plan but expressed belief the issue of accreditation was not the driving factor. Mr. Lupica informed accreditation was not tied to licensure and was an independent process. Mr. Lupica noted the public record indicated the hospital was performing very well.

Mr. Lupica suggested this was the appropriate time for the County to realign the financial relationship with Presbyterian including the consideration of Presbyterian assuming a portion of the remodel costs.

Mr. Beames responded that through the JHACO accreditation process LCMC can receive a "Deemed" status in lieu of a federal inspection by CMS. Mr. Beames led a discussion regarding the benefits of accreditation for LCMC as a Medicare provider with the designation of a qualified Sole Community Provider hospital.

Ms. Taylor reminded the estimated costs of the renovation and remodel project were based on the health assessment and preliminary design for the facility as prepared by the architectural firm hired by the LCMC auxiliary.

Commissioner Willard reminded although the first assessment and preliminary design were paid by the LCMC Auxiliary, the County had already approved the assessment by unanimous vote to proceed with the remodel and renovation option.

There was a lengthy discussion regarding the advisability of pursuing an additional assessment of the facility and a review of the preliminary design. The discussion also included various options for proceeding with architectural plans.

Commissioner Willard suggested the additional time to review the health assessment prepared by Dekker Perrich and Sabatini with the option to consider requesting a second opinion at the next meeting.

Commissioner Allen Bobby George of Dekker Perrich and Sabatini be present for discussion of these options.

22. Award of Bid 15-16-004 Janitorial Services Lincoln County Courthouse Complex

Ms. Taylor reported responses to Bid 15-16-004 were due on December 8, 2015 with only one response received as follows:

R and B Cleaning \$6,800 per month = \$18,600 per year

Ms. Taylor noted the bid received was a substantially higher per square foot cost than the current contract. Ms. Taylor stated the price per square foot currently was \$0.08 and the bid presented was \$0.15 per square foot. Ms. Taylor stated after discussion with the Attorney and in consideration of the bid being over the budgeted expense for these services, the recommendation was to reject the bid received. Ms. Taylor suggested consideration of either a reissuance of the bid or hiring two full time County employees for the work.

Motion: Reject the R and B Cleaning bid for Bid 15-16-004, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Stewart.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

Ms. Taylor estimated the cost of two full time employees at an entry level salary as approximately \$93,000 per year. Ms. Taylor stated her research indicated \$0.12 per square foot was a reasonable contract rate for these services.

Motion: Authorize the Manager to reissue the request for bids, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

23. Consideration / Action on Road Department Superintendent Position

Ms. Taylor discussed prior efforts to advertised and fill the vacant position of Road Superintendent. Ms. Taylor stated the position salary was currently capped at \$50,000 and suggested this salary had proved inadequate to attract a qualified applicant. Ms. Taylor stated the range of starting salaries for the same position in other counties was \$38,000 to \$65,000. Ms. Taylor requested permission to re-advertisement the position with a salary range of \$50,000 to \$65,000.

Motion: Set the salary range for the position of Road Superintendent at \$50,000 to \$65,000 dependant on qualifications, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Stewart.

Commissioner Draper reminded the current contractual obligation for the Interim Road Superintendent was more costly than the proposed salary range.

Ms. Taylor discussed various considerations including the effect of creating a salary higher than those of elected officials, the Road Superintendent's position status as "at will", and the current cost of contracting with an Interim Road Superintendent.

Ms. Taylor stated the current advertised position was still open and she had recently received one additional applicant.

Paul Baca, Assessor expressed concern about the position having a salary greater than those of elected officials. Mr. Baca acknowledged the salary of elected officials was capped by State Statute but suggested an employee receiving a higher level of pay than elected officials could diminish the obligation of time currently demonstrated by elected officials. Mr. Baca noted other departments did not have the luxury of increasing salaries to improve recruitment for positions.

Commissioner Willard and Commissioner Stewart withdrew their motion.

Commissioner Stewart suggested prior to advertisement

Motion: Grant the Manager authority to negotiate with the current applicant and if necessary advertise the position with a salary range of \$50,000 - \$60,000, **Action:** Approve, **Moved by** Commissioner Stewart, **None seconded.**

Ms. Taylor noted many counties have positions such as Managers and Road Superintendents for which the salary exceed that of elected officials. Ms. Taylor reminded of the "at will" status of the position and stated contacts in the industry expressed belief the current salary was inadequate.

Rhonda Burrows, Clerk discussed the challenge faced by all departments in the recruitment of qualified individuals and reminded of past discussions regarding the County's inability to complete with private industry. Ms. Burrows also discussed the unintended consequences of creating a salary exception for one position.

Ms. Taylor contended the position's classification as an "at will employee" created a unique situation.

Beverly Calaway, Treasurer reminded when the Board of County Commissioners voted to increase salaries for elected officials they did not raise the elected official salary levels to the maximum as provided by statute.

Chair Stone expressed belief there was a need for a statutory change to allow for an appropriate increase in elected official salaries but also recognized the dire need for the County to hire a Road Superintendent to provide adequate services to County residents.

Motion: Authorize the Manager to advertise the Road Superintendent position with a salary range of \$50,000 - \$60,000, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Allen.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

24. Renewal of County Attorney Contract

Ms. Taylor informed County Attorney, Alan Morel's current contract was a flat monthly fee of \$15,725.00 plus Gross Receipts Tax of \$1,356.28. Ms. Taylor reminded this fee included all fees and costs except litigation of individual cases of ordinance violations in magistrate and district courts. Ms. Taylor noted Attorney Morel had provided a comparison of actual hours worked at an hourly rate as compared to the flat fee with the County realizing a savings of \$66,096 over eleven months of this year.

Motion: Approve the renewal of Attorney Alan Morel's contract with an increase of 5% to the monthly fee, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Chair Stone.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

25. Midyear Budget Adjustment by Resolution 2015-27

Ms. Taylor reminded per statute the County may request adjustments to the budget to accommodate changes in financial operations during the fiscal year. Ms. Taylor reminded any approved adjustments were subject to approval by the NM Department of Finance and Administration.

Punkin Schlarb, Finance Director detailed the proposed budget adjustments including definition of a new separate fund line item for Lincoln County Medical Center lease revenues with a beginning balance of \$3,150,000; an increase of \$238,748 to the Road Department budget to complete a plan of operations; and an increase of \$649,013 in the Lincoln County Waste line item. Ms. Schlarb stated the remainder of the budget adjustments were due to normal County business fluctuations.

Commissioner Willard questioned the increase in Professional Services and Contractual Agreements for the County Manager's budget.

Ms. Schlarb reported the increases were related to services received from Spyglass who reviewed the County's telecommunication expenses and identified cost savings for those services. Ms. Schlarb noted the review resulted in a sizeable savings for services to the County.

Ms. Taylor reported the expenditure for professional services was previously approved by the Board of County Commissioners and stated she would research that action. Ms. Taylor noted the cost of services was directly offset by identified services.

Commissioner Stewart stated concern about expenditures exceeding \$1,467,800 over revenues. Commissioner Stewart stated while the transfer of solid waste operations was a "one time hit" the County needed to take steps to assure deficit spending did not continue.

There was a discussion of various individual adjustments with explanations provided by Ms. Schlarb.

Ms. Taylor commented on the current negative ratio of expenditures to revenues, the costs related to the transfer of solid waste services, and advised the Manager and Finance Department were very cognizant of the situation.

Motion: Adopt Resolution 2015-27 and approve the mid-year budget adjustments as presented, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

SEE EXHIBIT F: Copy of Resolution 2015-27 attached hereto in reference thereto made a part of.

26. Consideration of Appointments and Removals from Boards /Commissioners /Committees:

a) Lincoln Historic Preservation Board

Motion: Appoint Becky Borowski to the Lincoln Historical Preservation Board, **Action:** Approve, **Moved by** Commissioner Allen, **Seconded by** Commissioner Willard.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

- b) Planning Commission
- c) Senior Citizens Olympic Committee
- d) Road Task Force Steering Committee

27. Authorization to Schedule Public Hearing to Consider Other Outdated or New Lincoln County Ordinance

Commissioner Stewart suggested consideration of a Public Hearing to consider the issues associated with the reintroduction of the Mexican Wolf.

Attorney Morel expressed concern about potential conflicts with state and federal law and suggested additional research including a review of Ordinances adopted by other counties relating to this issue.

29. Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).

Motion: To close the meeting for the purposes of an Executive Session to discuss Threatened and/or Pending Litigation pursuant to the Open Meetings Act, Section 10-15-1, Sub Paragraph H.(7) and the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8) and as follows:

New or Updated Matters since last report = *

1. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County, et al.* D-1329-CV-2007-01364. Suit filed: October 15, 2007. Verified Complaint for Declaratory Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 18, 2013, and Stipulated Judgment was entered June 4, 2014 in favor of Ms. Cooper. Ms. Cooper filed an appeal June 10, 2014, and Judge John F. Davis was assigned Aug. 3, 2014. Joint Answer Brief of Defendants-Appellees' Steven Sederwall and Rick Virden with Request for Oral Argument filed in the Court of Appeals Sept. 28, 2015.

2. *Greentree Solid Waste Authority v. Lincoln County D-1226-CV-2014-00095.* Suit filed May 1, 2014. Verified Petition for Declaratory and Supplemental Relief: Injunction. County was served May 14, 2014. Mr. Paul Melendres has been retained by the County. Hearing on All Pending Motions took place Nov. 20 before Judge Ritter, who found Mr. Beauvais had a conflict of interest and was disqualified from representing GSWA. GSWA has retained Robert Doughty as new counsel Dec. 13, 2014. GSWA filed its Withdrawal of Plaintiff's Original and First Amended Verified Emergency Motion Seeking Further Relief on Plaintiff's Request for Preliminary Injunction Concerning Rate at which County Will Bill May 7, 2015. Lincoln County filed its Motion to Continue its Motion for Sanctions May 8, 2015 and the Order of Continuance was filed May 11, 2015.

3. **Greentree Solid Waste Authority v. Lincoln County, et. al. D-0101-CV-2013-00104.* Suit filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction. Mr. Beauvais filed an appeal Feb. 27, 2014. Ruling on Reconsidering Stay denied by Judge Singleton June 11, 2014. GSWA's Brief in Chief filed Sept. 9, 2014. Record Proper was filed Sept. 25, 2014. Alto Lakes Water and Sanitation District's and Lincoln County's Joint Response Brief was filed with the Court of Appeals Oct. 24, 2014. GSWA filed its Reply Brief Dec. 1, 2014. The case has been submitted to a panel of judges for decision and the County received Notice of Submission from the Court of Appeals Jan. 2, 2015. Mr. Beauvais' Attorney Charging Lien was filed April 29, 2015. Court of Appeals filed their Opinion October 1, 2015 upholding the District Court's granting of Summary Judgment in favor of the County and Alto Lakes Water and Sanitation District. GSWA filed its Petition for Writ of Certiorari Oct. 27, 2015 With New Mexico Supreme Court. GSWA's Writ of Certiorari was denied by the New Mexico Supreme Court December 2, 2015.

4. *Water Rights Protests: New Mexico State Engineer Hearing Numbers: 14-039 and 14-*

041. Protests of Applications 01300-1, 01300-2, 01300-3, 0826-2 into 0275 *et. al.* and H-272 *et al* (T) and H-50-1 into H-272 *et. al.* (T) filed July 15, 2013 pertaining to movement / transfer of water rights from the Hondo Valley to the Village of Ruidoso and the City of Ruidoso Downs. Docketing Order filed Sept. 18, 2014. Kelly Cassels/Sanders, Bruin, Coll & Worley, P.A. has been retained by the County, entered his appearance Sept. 22, 2014 and has responded in behalf of the County.

5. *Wesmax, Ltd. V. Paul Baca, Lincoln County Assessor D-1226-CV-2014-00188* Appeal of the Final Order from Lincoln County Valuation Protest Board. Appeal filed Oct. 8, 2014. Case assigned to Basham & Basham/Dwyer. Record of Appeal and Transcript of Proceedings was filed Oct. 23, 2014.

6. **Edward Rider/Brennon Moorhead v. The Board of County Commissioners, Brack Rains, Matt Christian, Robert Shepperd D 1226 CV 2015-00103* Complaint for Damages and Summons received June 15, 2015. Removed to Federal Court July 7, 2015. Order Granting Defendants' Motion to Dismiss filed Oct. 7, 2015. Second Amended Civil Complaint filed Nov. 4, 2015.

7. A. *Preston, DeAnna v. County of Lincoln, Sheriff Robert Shepperd D-1226-CV-2015-00112* Notice of Appeal of Post Disciplinary Hearing filed June 10, 2015. Amended Complaint alleging Civil Rights Violation and Gender Based Discrimination filed on Oct. 13, 2015.

B. *Preston, DeAnna: Notice of Charge of Discrimination* submitted to the U.S. Equal Employment Opportunity Commission July 21, 2015. Mediation was Oct. 29, 2015.

8. *Valle del Sol v. Naron, et. al. D-1226-CV-2015-00166* Complaint to Enforce and Collect Upon Promissory Note and to Foreclose Mortgage upon Real Property filed Sept. 24, 2015.

9. **Cody McMurray v. Board of County Commissioners, et al – D 1226 CV 2015-00170 Div. III-* Complaint for Damages filed Sept. 28, 2015 by Attorney W. Chris Nedbalek alleging violation of Civil Rights. First Amended Complaint filed in Federal Court Nov. 25, 2015 in which the County of Lincoln and the Board of County Commissioners are not named.

10. *Bill Turner v. Board of County Commissioners, et al – Cause No. 2:15-CV-00827-LAM-SMV –* Complaint for Damages filed Sept. 28, 2015 by Attorney W. Chris Nedbalek alleging violation of Civil Rights.

Tort Claims Notices Received or Threatened

2015

Cherry, Doris – Tort Claim Notice posted in Lincoln County News Jan. 1, 2015 stating possible Civil Rights Violation lawsuits regarding alleged Americans with Disabilities Act non-compliance in remodeling the Lincoln County Courthouse buildings.

McDaniel, Carl – Tort Claim Notice received Jan. 23, 2015 from Attorney John Sugg alleging violation of the Unfair Trade Practices Act and engaging in unfair or deceptive trade practices and/or unconscionable trade practices by GSWA.

UNM Hospital-Prins, Chad – Tort Claim Notice received Feb. 26, 2015 in which UNM Hospital seeks reimbursement of expenses incurred while Lincoln County Detention Center inmate Prins was on furlough.

Sehorn, Sean M. – Tort claim Notice received March 2, 2015 from Attorney Gary Mitchell alleging Lincoln County Detention Center failed to provide adequate medical treatment during inmate Sehorn's incarceration.

Lavin, Erica L. and Rathgeber, Jack – Tort Claim Notice received March 2, 2015 from Attorney Gary Mitchell alleging Constitutional Rights were violated resulting in wrongful termination.

Hanley, Constance – Tort Claim Notice received March 20, 2015 from Attorney John Sugg alleging violations of 42 USC section 1983, malicious prosecution, failure to investigate, defamation of character, libel and abuse of process.

Capitan Iron Mine through A. Blair Dunn – Threatened Litigation on April 1, 2015 against the County of Lincoln should Lincoln County require Capitan Iron Mine comply with Lincoln County Mine Ordinance 2009-01.

Chavez, Billy – **Ordinance Violation: 2009-03 Regulating Refuse, Solid Waste and Litter in the County.** March 10, 2015 certified letter mailed to Mr. Chavez giving him 30 days to dispose of debris on his property at 142 White Cat Road, San Patricio (Section 26, Township-10S, Range 16E, tract of land lying in the NE 4SE4). April 10, 2015 the property was inspected and noted no progress had been made.

Culp, Susan v. LCMC/Lincoln County: Tort Claim Notice received May 4, 2015 from Attorney Katherine Channing Roehl/Roehl Law Firm alleging medical malpractice, negligent supervision, negligent credentialing by staff, administrators and doctors at LCMC on or about March 3, 2015 during Ms. Culp's gall bladder removal surgery.

Reyes, Roberto – Tort Claim Notice received May 15, 2015 from Attorney Timothy White/Valdez White Law Firm alleging illegal seizure, illegal search, illegal imprisonment and wrongful conduct of the Lincoln County Sheriff's Department.

Torres, Leopoldo: Tort Claim Notice received June 4, 2015 from inmate Torres alleging inmate-initiated attack on inmate Torres at Lincoln County Detention Center.

Wallace, Stephen: Tort Claim Notice received June 11, 2015 from Attorney Gary Mitchell alleging deprivation of Constitutional rights due to false incarceration at Lincoln County Detention Center without proceeding with a timely extradition.

Rodriguez, Victor – Tort Claim Notice received July 13, 2015 from Attorney W. Chris Nedbalek alleging hostile treatment from fellow employees while employed at Lincoln County Detention Center.

Prudencio, Fabian and Corinne – Tort Claim Notice received July 24, 2015 from Attorney Daniel P. Ulibarri alleging negligence, personal injury, spoliation, indemnification and property damage against the County of Lincoln.

Yates, Barbara – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at her private property.

Davis, Jack and Rema – Verbal Threat against the County issued July 21, 2015 due to ongoing flooding at their private property.

Capitan Iron Mine – Tort Claim Notice received Sept. 24, 2014 via email from A. Blair Dunn, alleging County trespass on private property.

Estate of Viola/Orlando Montes – Tort Claim Notice received Sept. 28, 2015 from Attorney J. Robert Beauvais alleging vender was allowed onto Lincoln County Fairgrounds without necessary safety equipment.

L. Phillip Onsrud – Tort Claim Notice received Nov. 3, 2015 via email alleging lack of medical care while incarcerated in Lincoln County Detention Center.

2014

Ramos, Aaron – Tort Claim Notice received from Mr. Ramos March 18, 2014 alleging his rights were violated during incarceration at Lincoln County Detention Center. Mr. Ramos alleges damages by not being granted detainee to detainee correspondence.

Millerden, Kenneth and Anita – Tort Claim Notice received May 9, 2014 from Attorney Victor F. Poulos alleging negligence from staff at Lincoln County Medical Center during prepartum care for their infant son.

Ogden, John D – Tort Claim Notice received May 26, 2014 alleging mistreatment while incarcerated at Lincoln County Detention Center on March 11, 2014.

Rounds, Christopher – Tort Claim Notice received June 4, 2014 alleging being held in Lincoln County Detention Center without being advised of his charges.

Herbert, Crystal – Tort Claim Notice received June 23, 2014 from Attorney Matthew Coyte/Coyte Law alleging false imprisonment, due process violations, unlawful detention of a minor, emotional distress.

Class Action – Tort Claim Notice received June 23, 2014 from Attorney Ryan Villa/Cooper Law Firm alleging false imprisonment, false arrest, deprivation of rights at Lincoln County Detention Center that arise with Immigration and Customs Enforcement charges.

Atwell, Stacey – Tort Claim Notice received June 25, 2014 alleging unlawful seizure of her two minor children during a request for a deputy to assist in keeping the peace.

McGarry, Sean – Tort Claim Notice received July 25, 2014 from Attorney S. Doug Jones Witt alleging wrongful arrest, false imprisonment, malicious prosecution, intentional or negligent infliction of emotional distress, abuse of process, wrongful termination and retaliatory discharge regarding discharge from the Capitan Police Department.

Ramos, Aaron – Tort Claim Notice received August 7, 2014 alleging lack of Due Process for inmates at Lincoln County Detention Center.

Lambert, David and Bonnie - Tort Claim Notice received Sept. 8, 2014 from Attorney W. Chris Nedbalek alleging damage to Lambert property due to Mr. Rodney Bunsen using his own equipment to alter a platted County right of way without the authorization or knowledge of the County.

Caughron, Brittany and Anderson, Amie – Tort Claim Notice received Oct. 24, 2014 by Attorney W. Chris Nedbalek alleging overcrowding of Lincoln County Detention Center as a violation of 8th Amendment Rights.

Ryen, Allen- Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek alleging Mr. Ryen was exposed to unsanitary conditions at Lincoln County Detention Center.

Inmate Group – Tort Claim Notice received Oct. 27, 2014 by Attorney W. Chris Nedbalek alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

Caughron, Brittany and Anderson, Amie – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging inadequate medical care and overcrowding at Lincoln County Detention Center.

Inmate Group – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging overcrowding and unsanitary conditions at Lincoln County Detention Center.

Long, Cameron – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging mistreatment by an Officer with Adult Probation and Parole.

McClarnon, Brian – Tort Claim Notice received Nov. 14, 2014 by attorney W. Chris Nedbalek alleging violations of U.S. Constitutional Amendment rights.

Diana Martwick, 12th Judicial District Attorney – Tort Claim Notice received Nov. 25, 2014 alleging lack of adequate office space provided by the County of Lincoln.

Inmate Group – Tort Claim Notice received Dec. Dec. 22, 2014 by attorney W. Chris Nedbalek alleging inmates were mistreated at Lincoln County Detention Center.

2013

Harrisburg Documents- Attempts to recover Lincoln County documents illegally taken from the county. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in recovery efforts.

Action: Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Allen,
Vote: Motion passed (summary: Yes = 3, No = 2, Abstain = 0).
Yes: Commissioner Allen, Commissioner Draper, Commissioner Willard.
No: Chair Stone, Commissioner Stewart.

Chair Stone recessed the Regular Meeting and convened the Closed Session at 4:49:24 PM.

Chair Stone adjourned the Closed Session and reconvened the Regular Meeting at 5:28:31 PM.

Commissioner Willard attested that matters discussed in the closed meeting were limited to those specified in the motion for closure or in the notice of separate closed meeting

30. Settlement of D-1226-CV-2014-00095: Greentree Solid Waste Authority v. Lincoln County

Motion: Approve the Greentree Solid Waste Authority v. Lincoln County Compromise Settlement Agreement and Release, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Willard.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

31. Consider / Potential Action on the First Amendment to the Joint Powers Agreement (JPA) for the Financing and Establishment of the Otero / Lincoln County Regional Landfill

Motion: Approve the First Amendment to the Joint Powers Agreement as part of the Settlement Agreement with Greentree Solid Waste Authority, **Action:** Approve, **Moved by** Commissioner Stewart, **Seconded by** Commissioner Draper.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Draper, Commissioner Willard.

32. Signing of Official Documents


33. Next meeting:

January 26, 2016 - Regular Commission Meeting

34. Adjourn

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 5:30:16 PM.

County of Lincoln
Board of County Commissioners


Preston Stone, Chair


Dallas Draper, Vice Chair


Elaine Allen, Member



Thomas F Stewart, Member



F Lynn Willard, Member

ATTEST:



Rhonda Burrows, County Clerk

January 26, 2016

Date Approved

